

11/17/2005

J. C. HUMAN, CLERK  
BY  
D. J. DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

ROBERT LAWRENCE PAYNE, ) Civil Action No. 7:05-cv-00698  
Petitioner, )  
v. )  
UNITED STATES OF AMERICA, ) By: Hon. James C. Turk  
Respondent. ) Senior United States District Judge

In accordance with the accompanying memorandum opinion, it is hereby

**ADJUDGED AND ORDERED**

that petitioner's motion, styled as a motion for relief from judgment under Rule 60(b) in Civil Action No. 7:96-cv-00920, is hereby **CONSTRUED** as a motion to vacate, set aside or correct sentence, pursuant to 28 U.S.C. § 2255, and is **DISMISSED** as successive; and this action is hereby stricken from the active docket of the court. It is further **ORDERED** that the clerk **SHALL** associate a copy of this order and the accompanying memorandum opinion with Civil Action No. 7:96-cv-00920 and shall terminate Document 66 in that action.

The Clerk is directed to send certified copies of this order and the accompanying memorandum opinion to petitioner and to counsel of record for the respondent.

ENTER: This 17<sup>th</sup> day of November, 2005.

  
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Senior United States District Judge